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10/687,210	10/16/2003	Edward A. Hubbard	NING0012	7130
75671 7590 11/25/2009 Sadler, Breen, Morasch & Colby, ps 422 W. Riverside Ave, Suite 424 Spokane, WA 99201				
EXAMINER				
NASH, LASHANYA RENJEE				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/687,210

Applicant(s)

HUBBARD ET AL.

Examiner

LASHANYA R. NASH

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/08)
- Paper No(s)/Mail Date 10/28/09, 8/18/09
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office action is in response to the request for continued examination filed 20 August 2009. Claims 1-28 are cancelled. Claims 49-54 are new. Claims 29-54 are presented for further consideration.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 20 August 2009 has been entered.

Response to Arguments

In regards to the objection to the specification, Examiner notes Applicant's arguments, (see Remarks page 10). However, Examiner asserts that personal computing systems, internet appliances, and the like disclosed in the specification do not inherently denote that the aforementioned devices comprise a tangible computer-readable medium having instructions stored thereon, as claimed. It is not necessary for a computer to read instructions from an article of manufacture, as there are various components and means readily known in the art in which a computer can obtain and execute computer programs. Without

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providing an exhaustive list of such components and means, Examiner notes that it is conventional to manually program instructions into the computing device itself, and subsequently execute the programs on that computing device.

Examiner suggests amending the claims to recite "computer-readable storage medium", as supported by hard disk drives and devices with storage capabilities disclosed in Applicant's specification (page 16, lines 12-21).

Applicant's arguments filed 20 August 2009 have been fully considered but they are not persuasive. The following remarks are noted:

(I) Applicant contends that Granik is totally silent to incentivizing use of remote distributed devices to provide environmental data and location data.

(II) Applicant contends that the proposed combination would impermissibly change the principle of operation of Smith.

(III) Applicant contends that Granik does not constitute analogous art.

In considering (I), Applicant contends that Granik is totally silent to incentivizing use of remote distributed devices to provide environmental data and location data. Examiner respectfully disagrees. Examiner asserts that the language recited in independent claims regarding this feature is broad, and fails to explicitly recite or implicitly suggest particular actions which constitute incentivizing use of the one or more remote distributed devices to provide environmental and location data. It is noted that dependent claim language specifies the actions which comprise the aforementioned incentivizing use (i.e.

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sweepstakes entry, monetary reward, a non-monetary reward, a connectivity service, internet access, domain name hosting, or an E-mail account). Examiner asserts that Granik explicitly discloses providing incentives for a user to employ the client device in order to perform actions (i.e. click throughs, purchases) that further provide user tracking information to advertisers. This incentivizing is accomplished by rewarding these users with monetary awards, non monetary rewards, entry in a sweepstakes, etc. (paragraph [0018], lines 11-35). This teaching of Granik is evidently equivalent to the claimed "incentivizing use of remote distributed devices", as Applicant's claimed features and Granik perform the same functions for "incentivizing use" such as sweepstakes entry and monetary rewards. Although Granik does not expressly disclose environmental data and location data, the method provides incentives for a user to provide information related to tracking, therefore the particular type of tracking information (i.e. environmental and location) is not substantially essential to the function of Granik's teachings. Furthermore, Smith is cited in order to specifically teach a user providing information regarding environment and location (Smith; column 7, lines 9-13 and column 9, lines 61-65). Therefore, Examiner asserts that the combination of Smith and Granik, as set forth in the rejection below, teaches the aforementioned claimed features.

In considering (II), Applicant contends that the proposed combination would impermissibly change the principle of operation of Smith. Examiner respectfully disagrees. Examiner asserts Applicant's notion that the proposed

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combination of references relied upon would result in constructing a low level microcontroller of the monitoring device, as taught by Smith, with the highly programmable end-user software application, as taught by Granik,. Examiner asserts that this notion is in error. The limitations of claim 1 recite that the step of incentivizing be performed by the server, therefore the combination to provide this feature would result in a modification to the function of the server as taught by Smith (Smith; Figure 3-item 104) not the monitoring device which comprises the particular sensors for monitoring a plurality of heterogeneous targets such as a vehicles, buildings, and people (Smith; column 2, lines 4-7). Furthermore, arguendo, that installation of the software application as taught by Granik is necessary to the operation of the proposed combination, Examiner asserts that this software application would not be required to be downloaded to the microcontroller of the monitoring device, but rather to the associated client computer device (Figure 2-item 38; Figure 3-item 108). Smith discloses that a computer in connection with the monitoring device is used for, "...other functions such as downloading recorded information...E-mail, Internet connections, messaging, and other purposes..", (Smith; column 2, lines 55-59), and appreciates the advantages of a complex computing machine used supplemental to the monitoring device due to the intended simplistic function of low level design.

In considering (III), Applicant contends that Granik does not constitute analogous art. In response to Applicant's argument that Granik is nonanalogous

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art, it has been held that a prior art reference must either be in the field of Applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Examiner asserts that Granik is in Applicant's field of endeavor as the disclosure is clearly regarding gathering and storing information from a client across a distributed network, namely the Internet (Granik; paragraphs [0006]-[0007]). Applicant addresses a similar field of endeavor, which is also in the distrusted networking environment, (i.e. Internet), as disclosed in Applicant's specification (page 2, paragraphs 1-2). As a result, Granik is appropriately considered analogous art.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). There is no support in the specification for the claimed tangible computer-readable medium of claims 43-48. Examiner suggests amending the aforementioned claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US Patent 6,611,686) as applied to claims above in view of Granik et al. (US Patent Application Publication 2002/0010757), hereinafter referred to as Smith and Granik as set forth below in the Office action.

In reference to claim 28, Smith discloses a tracking control and logistics system employing remotely located sensors via a network (abstract). Smith further discloses:

- A system, comprising:
- A server system (server; Figure 3-item 104) configured to:
 - communicate with one or more remote distributed devices (i.e. monitor devices; column 5, lines 35-51; Figure 3-items 10), the one or more remote distributed devices configured to receive data from at least one environmental sensor (i.e. input ports of monitoring device connected to sensors; column 6, lines 60-column 7, line 4; column 10, lines 20-28) ;
 - or more remote distributed devices to provide environmental data (i.e. temperature data; abstract; column 7, lines 9-13) and location data corresponding to the one or more remote distributed devices (i.e. location data of monitoring device; column 9, lines 61-65);

- receive the environmental data and the location data from the one or more remote distributed devices (i.e. server receives tracking data from the monitor units; column 13, lines 38-42).

However the reference fails to disclose incentivize the one or more remote distributed devices to provide environmental data and location data corresponding to the one or more remote distributed devices. Nonetheless, this would have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Granik.

In an analogous art, Granik discloses a system for providing web-based content to users via the Internet (abstract). Granik further discloses incentivize the one or more remote distributed devices to provide data corresponding to the one or more remote distributed devices (i.e. providing rewards to users for proving tracking data; paragraph 18, lines 16-35). One of ordinary skill in the art would have been so motivated to accordingly modify the server of Smith to provide incentives so as to encourage certain user actions and further increase data gathered by the system (Granik; paragraphs [0007]-[0008]).

In reference to claim 37, Smith discloses a tracking control and logistics method for employing remotely located sensors via a network (abstract). Smith further discloses:

- A method comprising:

- identifying one or more remote distributed devices (i.e. monitoring device identification number; column 13, lines 30-38) configured to sense an environmental condition (i.e. sensors of monitoring devices detect temperature data; column 6, lines 60-column 7, line 13) by one or more server systems (i.e. server identifies the monitoring devices; column 13, lines 25-30) ;
- the one or more remote distributed devices to provide environmental data corresponding to a sensed environmental condition(i.e. temperature data; abstract; column 7, lines 9-13), and location data corresponding to a location of the one or more remote distributed devices by the one or more server systems devices (i.e. location data of monitoring device; column 9, lines 61-65);
- receiving environmental data and location data from the one or more remote distributed devices by the one or more server systems (i.e. server receives tracking data from the monitor units; column 13, lines 38-42); and

However the reference fails to disclose incentivizing the one or more remote distributed devices to provide environmental data corresponding to a sensed environmental condition, and location data corresponding to a location of the one or more remote distributed devices by the one or more server systems; and configuring a distributed processing system by selecting one or more remote distributed devices based in part on a location of the one or more remote distributed devices by the one or more server systems. Nonetheless, this would

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have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Granik.

In an analogous art, Granik discloses a system for providing web-based content to users via the Internet (abstract). Granik further discloses incentivize the one or more remote distributed devices to provide data corresponding to the one or more remote distributed devices (i.e. providing rewards to users for proving tracking data; paragraph 18, lines 16-35) and configuring a distributed processing system by selecting one or more remote distributed devices based in part on a location of the one or more remote distributed devices by the one or more server systems (i.e. subsequent content distributed to user is based on the gathered by the system from the user; paragraph [0018], lines 11-18). One of ordinary skill in the art would have been so motivated to accordingly modify the method of Smith to provide incentives so as to encourage certain user actions and further increase data gathered by the system (Granik; paragraphs [0007]-[0008]).

In reference to claim 43, Smith discloses a computer-readable medium comprising programming for implementing tracking control and logistics method for employing remotely located sensors via a network (abstract; Figure 5). Smith further discloses:

- A tangible computer-readable medium having instructions stored thereon, the instructions comprising (i.e. programming of monitoring unit; column 8, lines 48-54):

- wherein the instructions cause the sensor based distributed processing system to be formed (i.e. command certain monitoring units to form a monitored system; column 13, lines 17-25) by coupling one or more remote environmental sensors (i.e. input ports of monitoring device connected to sensors; column 6, lines 60-column 7, line 4; column 10, lines 20-28) to a remote distributed device (column 5, lines 35-51);
- instructions to measure at least one environmental condition with the one or more remote environmental sensors coupled to the remote distributed device (i.e. sensors of monitoring devices detect temperature data; column 6, lines 60-column 7, line 13);
- instructions to determine a location of the remote distributed device (i.e. location data of monitoring device; column 9, lines 61-65); and
- instructions to transmit environmental data corresponding to the at least one measured environmental condition, location data corresponding to the location of the remote distributed device (i.e. monitoring units transmit tracking data to server; column 13, lines 38-42), and an identifier corresponding to the one or more remote environmental sensors (i.e. pin numbers of monitoring units; column 13, lines 35-42).

However the reference fails to disclose instructions to receive a beneficial incentive to form a sensor based distributed processing system. Nonetheless, this would have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Granik.

In an analogous art, Granik discloses a system for providing web-based content to users via the Internet (abstract). Granik further discloses a beneficial incentive to form a sensor based distributed processing system (i.e. providing rewards to users for proving tracking data; paragraph 18, lines 16-35). One of ordinary skill in the art would have been so motivated to accordingly modify the monitoring units of Smith to be responsive to incentives so as to encourage certain user actions and further increase data gathered by the system (Granik; paragraphs [0007]-[0008]).

In reference to claim 49, Smith discloses a tracking control and logistics method for employing remotely located sensors via a network (abstract). Smith further discloses:

- A method comprising:
- identifying, by one or more server systems (server identifies the monitoring devices; column 13, lines 25-30), one or more remote distributed devices (i.e. monitoring device identification number; column 13, lines 30-38) configured to sense a condition (i.e. sensors of monitoring devices detect temperature data; column 6, lines 60-column 7, line 13) ;
- incorporation of the one or more remote distributed devices into the distributed computing platform to provide data corresponding to a sensed condition (i.e. location data of monitoring device; column 9, lines 61-65), being based, at least in part, upon one or more capabilities associated

- with the one or more remote distributed devices (i.e. actions based on capabilities of the monitoring device; column 7, lines 4-33);
- receiving, by the one or more server systems, data from the remote distributed devices by that have been incorporated into the distributed computing platform (i.e. server receives tracking data from the monitor units; column 13, lines 38-42); and

However the reference fails to disclose incentivizing, by the one or more server systems, incorporation of the one or more remote distributed devices into a distributed computing platform to provide data corresponding to a sensed condition, the incentivizing being based, at least in part, upon one or more capabilities associated with the one or more remote distributed devices. Nonetheless, this would have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Granik.

In an analogous art, Granik discloses a system for providing web-based content to users via the Internet (abstract). Granik further discloses incentivizing, by the one or more server systems, and incentivizing, being based, at least in part, upon one or more capabilities associated with the one or more remote devices (i.e. providing rewards to users for proving tracking data based on user data; paragraph 18, lines 16-35); and receiving, by the one or more server systems, data from the incentivized remote distributed devices that have been incorporated into the distributed computing platform (i.e. subsequent content distributed to user is based on the gathered by the system from the user;

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paragraph [0018], lines 11-18). One of ordinary skill in the art would have been so motivated to accordingly modify the method of Smith to provide incentives so as to encourage certain user actions and further increase data gathered by the system according to capabilities of the user (Granik; paragraphs [0007]-[0008]).

In reference to claim 54, Smith discloses a tracking control and logistics method for employing remotely located sensors via a network (abstract). Smith further discloses:

- A system comprising:
- A means for identifying (i.e. server; Figure 3-item 104), by one or more server systems (server identifies the monitoring devices; column 13, lines 25-30), one or more remote distributed devices (i.e. monitoring device identification number; column 13, lines 30-38) configured to sense a condition (i.e. sensors of monitoring devices detect temperature data; column 6, lines 60-column 7, line 13) ;
- Means for incorporation (i.e. server; Figure 3-item 104) of the one or more remote distributed devices into the distributed computing platform to provide data corresponding to a sensed condition (i.e. location data of monitoring device; column 9, lines 61-65), being based, at least in part, upon one or more capabilities associated with the one or more remote distributed devices (i.e. actions based on capabilities of the monitoring device; column 7, lines 4-33);

- Means for receiving (i.e. server; Figure 3-item 104), by the one or more server systems, data from the remote distributed devices by that have been incorporated into the distributed computing platform (i.e. server receives tracking data from the monitor units; column 13, lines 38-42); and

However the reference fails to disclose a means for incentivizing incorporation of the one or more remote distributed devices into a distributed computing platform to provide data corresponding to a sensed condition, the incentivizing being based, at least in part, upon one or more capabilities associated with the one or more remote distributed devices. Nonetheless, this would have been an obvious modification to the teachings of Smith for one of ordinary skill in the art at the time of the invention, as further evidenced by Granik.

In an analogous art, Granik discloses a system for providing web-based content to users via the Internet (abstract). Granik further discloses a means for incentivizing (i.e. server; Figure 1-item 20; paragraph [0022], lines 1-17), by the one or more server systems, and incentivizing, being based, at least in part, upon one or more capabilities associated with the one or more remote devices (i.e. providing rewards to users for proving tracking data based on user data; paragraph 18, lines 16-35); and receiving, by the one or more server systems, data from the incentivized remote distributed devices that have been incorporated into the distributed computing platform (i.e. subsequent content distributed to user is based on the gathered by the system from the user; paragraph [0018], lines 11-18). One of ordinary skill in the art would have been so motivated to accordingly modify the method of Smith to provide incentives so

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as to encourage certain user actions and further increase data gathered by the system (Granik; paragraphs [0007]-[0008]).

In reference to claims 30, 38 and 46 Smith discloses wherein the one or more remote distributed devices are configured to sense an environmental condition with at least one environmental sensor, the environmental sensor comprising one or more of a biometrics detection sensor, an early warning sensor, a network intrusion sensor, a radio frequency identification sensors, or a system security sensor (column 7, lines 1-22).

In reference to claims 31, 39 and 45 Smith discloses wherein the environmental data comprises one or more of temperature data, humidity data, video data, or identification parameter data (column 7, lines 1-22).

In reference to claims 32 and 40 Smith discloses, wherein the location data comprises one or more of Global Positioning System coordinates, an address, or a network address (column 9, lines 60-65).

In reference to claims 33, 41 and 44 Granik discloses wherein to incentivize comprises supplying the one or more remote distributed devices with one or more of a sweepstakes entry, a monetary reward, a non-monetary reward, a

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connectivity service, internet access, domain name hosting, or an E-mail account (paragraph [0018], lines 11-35).

In reference to claim 34, Granik discloses wherein the server system is further configured to select one or more remote distributed devices based in part on a location of the one or more remote distributed devices and/or the at least one environmental sensor (paragraph [0018], lines 11-18).

In reference to claims 35, 42 and 47 Smith discloses wherein the server system is further configured to store the environmental data and the location data based in part on an identifier associated with the one or more remote distributed devices and/or the at least one environmental sensor (column 13, lines 35-42).

In reference to claim 36, Smith wherein the server system is further configured to transfer the environmental data and the location data to a customer system (column 13, lines 42-50).

In reference to claim 38, Smith discloses further comprising instructions to wirelessly receive data from the one or more environmental sensors (column 5, lines 50-55).

In reference to claim 51, Smith shows the method of claim 49, wherein the one or more capabilities comprise capabilities associated with an ability to provide

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infrastructure support for one or more sensors (i.e. data reporting, logging, and collection capabilities of the monitoring device; column 7, lines 14-45).

In reference to claim 52, Smith shows the method of claim 49, wherein the one or more capabilities comprise capabilities associated with an ability to provide infrastructure support for sensors comprising one or more of power sensors, communication services sensors, recording sensors, or data logging services sensors (column 7, lines 14-45).

In reference to claim 53, Smith shows the method of claim 49, wherein the one or more capabilities comprise capabilities associated with storage capabilities of the one or more remote distributed devices (column 7, lines 14-45).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LASHANYA R. NASH whose telephone number is (571)272-3957. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaShanya R Nash/
Examiner, Art Unit 2453
October 29, 2009

/Liangche A. Wang/
Primary Examiner, Art Unit 2453